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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 150721634-5773-01]

RIN 0648-BF11

**Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast
Groundfish Fishery; Process For Divestiture of Excess Quota Shares in the
Individual Fishing Quota Fishery**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: In January 2011, NMFS implemented the groundfish trawl rationalization program (a catch share program) for the Pacific coast groundfish limited entry trawl fishery. The program was implemented through Amendment 20 to the Pacific Coast Groundfish Fishery Management Plan and the corresponding implementing regulations. Amendment 20 established the trawl rationalization program, which includes an Individual Fishing Quota program for limited entry trawl participants. Under current regulations, quota share (QS) permit owners must divest quota share holdings that exceed accumulation limits by November 30, 2015. This proposed action would make minor procedural modifications to the program regulations to clarify how divestiture and

revocation of excess quota share could occur in November, 2015, and establish procedures applicable in the future if divestiture becomes necessary.

DATES: Comments on this proposed rule must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2015–0086, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2015-0086, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; Attn: Colby Brady.

- *Fax:* 206–526–6117; Attn: Colby Brady.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/ A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Colby Brady (West Coast Region, NMFS), phone: 206-526-6117, and e-mail: *colby.brady@noaa.gov*, or contact Sarah Towne (West Coast Region, NMFS), phone: 206-526-4140, and e-mail: *sarah.towne@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is accessible via the Internet at the Office of the Federal Register Web site at <https://www.federalregister.gov>. Background information and documents are available at the NMFS West Coast Region website at <http://www.westcoast.fisheries.noaa.gov> and at the Pacific Fishery Management Council's website at <http://www.pcouncil.org>.

The final environmental impact statement (FEIS) regarding specifications to rationalize the trawl fishery for the implementation of Amendment 20 to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP, or FMP) is available on the NOAA Fisheries West Coast Region website at:

<http://www.pcouncil.org/groundfish/fishery-management-plan/fmp-amendment-20>

Copies of both documents are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280.

Background

In January 2011, the National Marine Fisheries Service (NMFS) implemented a trawl rationalization program, which is a catch share program, for the Pacific coast groundfish limited entry trawl fishery. The program was implemented through

Amendment 20 to the PCGFMP and the corresponding implementing regulations at 50 CFR part 660. Amendment 20 established the trawl rationalization program that consists of: an Individual Fishing Quota (IFQ) program for the shorebased trawl fleet (including whiting and nonwhiting sectors), and cooperative (coop) programs for the at-sea mothership and catcher/processor trawl fleets (whiting only).

Regulations in §§ 660.111 and 660.140(d)(4) define and describe quota share (QS) and individual bycatch quota (IBQ) control limits as the maximum amount of QS and IBQ that a person, individually or collectively, may own or control in the shorebased IFQ program. The regulations set individual control limits for each of the 30 IFQ species, as well as an aggregate nonwhiting control limit across species. NMFS collects ownership interest information annually in order to ensure compliance with the control limits, and QS permit owners must disclose the identity and share of any persons who have an ownership interest greater or equal to 2% of the QS permit.

Consistent with the trawl rationalization program, some QS permit owners were initially allocated an amount of QS and IBQ that exceeded one or more of the control limits, based on their catch history during the qualifying years. The regulations provided these QS permit owners an adjustment period to hold the excess shares, but they must completely divest of any excess QS or IBQ by November 30, 2015, as specified at § 660.140(d)(4)(v). For any QS permit owner who does not divest of their excess shares by the deadline, the regulations specify that NMFS will revoke their excess QS or IBQ and redistribute it to other QS permit owners in proportion to their current QS or IBQ holdings, up to the control limits.

NMFS seeks to clarify the revocation protocols for cases where QS permit owners do not voluntarily divest before the deadline. The current regulations at § 660.140(d)(4)(v) make it clear that if a QS permit owner owns QS in excess of a control limit after the divestiture deadline, NMFS will revoke and redistribute the excess QS to all other QS permits in proportion to their QS and IBQ holdings, up to the control limits. These regulations are sufficient in simple situations where the permit owner only owns one permit. However, the current regulations do not address how NMFS would revoke shares from a person or entity that is over an individual species control limit across several QS permits, or how NMFS would revoke shares from a person or entity that is over the aggregate nonwhiting control limit. In addition, the Council's Groundfish Advisory Panel (GAP) identified a problem where QS permit owners who are over the aggregate nonwhiting control limit may not be able to find a willing recipient to take their excess QS.

Proposed Action

The proposed action includes two regulatory mechanisms that further implement original QS divestiture provisions of the trawl rationalization program: proportional reduction of QS and abandonment. All items were discussed at the November 2014 Council meeting in Costa Mesa, CA, and at the April 2015 Council meeting in Rohnert Park, CA.

NMFS proposes to apply a "proportional reduction" methodology to revoke excess shares from QS permit owners who exceed individual species control limits across several QS permits or exceed the aggregate nonwhiting control limit and fail to divest by the November 30, 2015, divestiture deadline. In cases where a person or entity has not

divested to the control limits for individual species across QS permits, NMFS would revoke QS at the species level in proportion to the amount the QS percentage from each permit contributes to the total QS percentage owned. In cases where a QS permit owner has not divested to the control limit for aggregate nonwhiting QS holdings, NMFS would revoke QS at the species level in proportion to the amount of the aggregate overage divided by the aggregate total owned. Because QS is a valuable asset, it is important to clearly define and receive public comment on the process by which NMFS would permanently revoke QS to the QS and IBQ control limits. More information and examples are provided below.

In addition, NMFS proposes a process by which QS permit owners who are over the aggregate nonwhiting control limit may abandon shares of their choosing to NMFS by November 15, 2015. The “abandonment” option would provide additional flexibility for QS permit owners who are over the aggregate limit, because they could choose which nonwhiting IFQ species to abandon, rather than waiting until the divestiture deadline when some of each IFQ species would be revoked proportionally by NMFS.

NMFS also proposes to modify the regulations so that the same revocation and abandonment procedures could be used in the future if necessary. NMFS proposes to notify any QS permit owner who is found to exceed an accumulation limit after the November 30, 2015, divestiture deadline, and provide the QS permit owner 60 days to divest of the excess QS. NMFS also proposes that any QS permit owner who is found to exceed the aggregate nonwhiting control limit may abandon QS in excess of the limit to NMFS within 30 days of the notification, using the same method described further below.

Proportional Reduction to Individual Species Control Limits

As described above, the current regulations at § 660.140(d)(4) set individual control limits for each of 30 IFQ species. At the time of this rulemaking, nine unique entities hold QS in excess of one or more of the individual species control limits, and must divest to the limits by November 30, 2015. In the event that a QS permit owner has not divested to the individual species control limits by November 30, 2015, current regulations described in § 660.140(d)(4)(v) clearly define how NMFS will revoke and redistribute the excess QS or IBQ if the QS permit owner only has ownership in one QS permit. NMFS will revoke the QS or IBQ in excess of the limit and redistribute the excess QS to all other QS permit owners in proportion to their current QS holdings, up to the control limits. For example, the individual species control limit for starry flounder is 10 percent. If a QS permit owner holds 11 percent of starry flounder after the divestiture deadline, NMFS would revoke one percent of starry flounder and redistribute it to all other QS permit owners in proportion to their current QS holdings, up to the control limits.

However, if a QS permit owner holds QS in excess of an individual species control limit across several QS permits after the November 30, 2015, deadline, current regulations do not specify how the excess QS would be revoked. NMFS proposes to revoke QS at the species level in proportion to the amount the QS percentage from each permit contributes to the total QS percentage owned. For example, if a QS permit owner holds a total of 11 percent of starry flounder across five different QS permits, NMFS would need to revoke a total of one percent from the permit owner. In order to determine how much to revoke from each QS permit, NMFS would calculate how much each of the five QS permits was contributing to the total amount of starry flounder owned by the

permit owner. In Table 1 below, QS Permit 1 accounts for 18.182 percent of the total starry flounder QS owned by the permit owner, QS Permit 2 accounts for 9.091 percent, etc. (see Column C below in Table 1). NMFS would then apply this same proportion to the overage amount to determine how much to revoke from each permit. For example, since the QS permit owner held one percent in excess of the control limit, 0.182 percent would be revoked from QS Permit 1, 0.091 percent would be revoked from QS Permit 2, etc. (see Column D below in Table 1). A total of one percent would be revoked across all permits to reach the 10 percent individual species control limit.

Table 1. Example of How NMFS Would Revoke QS for an Entity Over an Individual Species Control Limit Across Multiple QS Permits After the Divestiture Deadline. (NMFS proposes to revoke QS from each permit in proportion to the amount each QS permit contributes to the overage. This example is speculative, and does not intentionally bear any resemblance to any particular QS owner.)

| A | B | C | D | E |
|---|---|--|--|---|
| QS Permit | QS Percent Owned by Individual in Each Permit for Species X | Individual Permit's Share of Total Percent Owned Across Permits = [B / Total (11%)] | Amount Revoked and Redistributed by NMFS = [C x Overage (1%)] | Amount Remaining Owned by Individual = (B-D) |
| 1 | 2% | 18.182% | 0.182% | 1.818% |
| 2 | 1% | 9.091% | 0.091% | 0.909% |
| 3 | 3% | 27.273% | 0.273% | 2.727% |
| 4 | 1% | 9.091% | 0.091% | 0.909% |
| 5 | 4% | 36.364% | 0.364% | 3.636% |
| Total QS% Owned by Individual Across QS Permits | 11% | | 1.000% | 10.000% |
| QS Control Limit for Species | 10% | | | |
| Amount Over Control Limit | 1% | | | |

The proposed method would provide NMFS with clear guidance of how to revoke QS from QS permit owners who are over an individual species control limit as of the November 30, 2015, divestiture deadline. Because NMFS will strive to make all quota pound allocations to QS permit owners on or about January 1, 2016, and all QS permits must be under the control limits by this time, a clear process will allow NMFS to make any necessary QS revocations and redistributions, and subsequent quota pound allocations, in a timely manner.

If a QS permit owner was found to exceed an individual control limit across QS permits in 2016 or beyond, NMFS proposes to notify the QS permit owner and provide them 60 days from the time of notification to transfer the excess QS/IBQ. If the QS permit owner still held excess QS/IBQ at the end of the 60-day divestiture period, NMFS

proposes to revoke the excess QS/IBQ using the same method described above, and redistribute the excess QS/IBQ to all other QS permit owners in proportion to their QS/IBQ holdings on or about January 1 of the following calendar year, based on current ownership records. No person would be allocated an amount of QS or IBQ that would put that person over an accumulation limit.

Widow rockfish cannot be transferred under current regulations until widow reallocation is considered and implemented. Because widow rockfish QS percentages could be reallocated to QS permit owners in different amounts than their current holdings, NMFS will not revoke excess widow QS until widow rockfish reallocation consideration and applicable implementation is completed. Excessive shares of widow rockfish and potential divestiture will be considered as part of the forthcoming widow rockfish reallocation proposed rule.

Proportional Reduction to the Aggregate Nonwhiting Control Limit

As described above, the current regulations at § 660.140(d)(4) set an aggregate nonwhiting control limit across IFQ species. The limit is 2.7 percent of the total nonwhiting, nonhalibut QS, and is calculated by multiplying a QS permit owner's QS for each species by the 2010 optimum yield (OY), and then converting the total back into a percentage. The aggregate limit is more restrictive than the sum of individual species control limits, which was the intent of the Council and NMFS since the beginning of the trawl rationalization program in January 2011.

At the time of this rulemaking, three or less unique entities hold QS in excess of the aggregate nonwhiting control limit (defined this way due to confidentiality requirements), and must divest to the 2.7 percent limit by November 30, 2015. In the

event that a QS permit owner has not divested to the aggregate nonwhiting control limit by November 30, 2015, current regulations do not describe how QS should be revoked. NMFS proposes to revoke QS at the species level in proportion to the amount of the aggregate overage divided by the aggregate total owned. For example, if a QS permit owner held the maximum allowable amount of each IFQ species (nonwhiting, nonhalibut) up to each of the individual species control limits, they would have aggregate holdings of 5.840 percent, or 3.140 percent above the 2.7 percent aggregate nonwhiting control limit (see Columns A-D in Table 2, below). NMFS would divide the aggregate overage (3.140 percent) by the total aggregate amount owned (5.840 percent), and multiply this value (53.767%) by the QS owned for each nonwhiting nonhalibut species to get the amount of QS to revoke from each species (see Columns E-H in Table 2, below). For example, in Table 2 below, NMFS would revoke 5.377 percent of arrowtooth flounder and 7.097 percent of bocaccio, etc. (see Column F in Table 2) from this QS permit owner in order to get them down to the 2.7% aggregate nonwhiting control limit. This example is intended to illustrate the basis for the calculation, but the revocation calculation will be affected by the moratorium on widow rockfish QS trading until widow is potentially reallocated, as described in Table 2 below.

Table 2. Example of How NMFS Would Revoke QS for an Entity Over the 2.7 Percent Aggregate Nonwhiting Control Limit After the Divestiture Deadline.

(NMFS proposes to revoke QS from each nonwhiting nonhalibut species in proportion to the amount of the aggregate overage divided by the aggregate total owned. This example is speculative, and does not intentionally bear any resemblance to any particular QS owner.)

| A | B | C | D | E | F | G | H |
|---|--|--|---|---------------------------------------|--|--|---|
| IFQ Species | 2010 Shorebased Trawl Allocation (lbs) | An Example Entity's QS% - Here Set Equal to Control Limits | Conversion of Example Entity's QS to Pounds | Overage/Total Owned = (3.140%/5.840%) | Amount Revoked and Redistributed by NMFS = (C*E) | Amount Remaining Owned by Example Entity = (C-G) | Conversion of Example Entity's Remaining QS to Pounds |
| Arrowtooth flounder | 21,156,441 | 10.000% | 2,115,644 | 53.767% | 5.377% | 4.623% | 978,119 |
| Bocaccio rockfish South of 40°10' N. | 113,287 | 13.200% | 14,954 | 53.767% | 7.097% | 6.103% | 6,914 |
| Canary rockfish | 34,294 | 4.400% | 1,509 | 53.767% | 2.366% | 2.034% | 698 |
| Chilipepper rockfish South of 40°10' N. | 4,046,034 | 10.000% | 404,603 | 53.767% | 5.377% | 4.623% | 187,059 |
| Cowcod South of 40°10' N. | 4,409 | 17.700% | 780 | 53.767% | 9.517% | 8.183% | 361 |
| Darkblotched rockfish | 655,071 | 4.500% | 29,478 | 53.767% | 2.420% | 2.080% | 13,629 |
| Dover sole | 34,546,436 | 2.600% | 898,207 | 53.767% | 1.398% | 1.202% | 415,265 |
| English sole | 20,398,822 | 5.000% | 1,019,941 | 53.767% | 2.688% | 2.312% | 471,546 |
| Lingcod North of 40°10' N. | 3,494,084 | 2.500% | 87,352 | 53.767% | 1.344% | 1.156% | 40,385 |
| Lingcod South of 40°10' N. | 1,283,443 | 2.500% | 32,086 | 53.767% | 1.344% | 1.156% | 14,834 |
| Longspine thornyheads North of 34°27' N. | 4,544,278 | 6.000% | 272,657 | 53.767% | 3.226% | 2.774% | 126,057 |
| Minor shelf rockfish North of 40°10' N. | 543,925 | 5.000% | 27,196 | 53.767% | 2.688% | 2.312% | 12,574 |
| Minor shelf rockfish South of 40°10' N. | 133,526 | 9.000% | 12,017 | 53.767% | 4.839% | 4.161% | 5,556 |
| Minor slope rockfish North of 40°10' N. | 1,950,209 | 5.000% | 97,510 | 53.767% | 2.688% | 2.312% | 45,082 |
| Minor slope rockfish South of 40°10' N. | 869,459 | 6.000% | 52,168 | 53.767% | 3.226% | 2.774% | 24,118 |
| Other flatfish | 9,646,547 | 10.000% | 964,655 | 53.767% | 5.377% | 4.623% | 445,986 |
| Pacific cod | 3,340,003 | 12.000% | 400,800 | 53.767% | 6.452% | 5.548% | 185,301 |
| Pacific ocean perch North of 40°10' N. | 377,577 | 4.000% | 15,103 | 53.767% | 2.151% | 1.849% | 6,983 |
| Petrale sole | 2,502,247 | 3.000% | 75,067 | 53.767% | 1.613% | 1.387% | 34,706 |
| Sablefish North of 36° N. | 6,606,862 | 3.000% | 198,206 | 53.767% | 1.613% | 1.387% | 91,636 |
| Sablefish South of 36° N. | 1,164,834 | 10.000% | 116,483 | 53.767% | 5.377% | 4.623% | 53,853 |
| Shortspine thornyheads North of 34°27' N. | 3,288,084 | 6.000% | 197,285 | 53.767% | 3.226% | 2.774% | 91,210 |
| Shortspine thornyheads South of 34°27' N. | 110,231 | 6.000% | 6,614 | 53.767% | 3.226% | 2.774% | 3,058 |
| Splitnose rockfish South of 40°10' N. | 965,514 | 10.000% | 96,551 | 53.767% | 5.377% | 4.623% | 44,638 |
| Starry flounder | 1,176,166 | 10.000% | 117,617 | 53.767% | 5.377% | 4.623% | 54,377 |
| Widow rockfish | 713,178 | 5.100% | 36,372 | 53.767% | 2.742% | 2.358% | 16,816 |
| Yelloweye rockfish | 406 | 5.700% | 23 | 53.767% | 3.065% | 2.635% | 11 |
| Yellowtail rockfish North of 40°10' N. | 8,189,203 | 5.000% | 409,460 | 53.767% | 2.688% | 2.312% | 189,304 |
| Total Non-Whiting Non-Halibut QP Sum: | 131,854,570 | Example Entity's QP Sum: | 7,700,338 | | | Example Entity's NEW QP Sum: | 3,560,075 |
| | | Example Entity's Aggregate Non-Whiting Percentage: | 5.840% | | | Example Entity's NEW Aggregate Non-Whiting Percentage: | 2.700% |
| | | Amount Over Limit (2.7%) | 3.140% | | | NEW Amount Over Limit (2.7%) | 0.000% |

Although in Table 2 widow rockfish is included in the aggregate nonwhiting control limit calculation, widow rockfish QS cannot currently be transferred, pending the potential reallocation of widow QS. As described above, NMFS will not revoke widow rockfish QS since it could be reallocated and therefore the percentage owned by each QS permit owner could change. NMFS brought this issue to the Council in April 2015, noting that QS permit owners who are currently over the aggregate limit, including their QS percentage of widow rockfish, would need to divest of one or more of the other non-widow species included in the calculation to get under the limit by the deadline. The Council moved to continue to include widow rockfish in the aggregate calculation.

Consequently, NMFS proposes to continue to include widow rockfish in the aggregate nonwhiting control limit calculation (as described in the Council motion), but if any QS permit owner has not divested to get under the aggregate limit by the divestiture deadline, NMFS will revoke some of each IFQ species included in the calculation except for widow rockfish (until reallocation consideration and implementation is completed). As described above, NMFS would divide the amount of the aggregate overage by the aggregate total owned, but hold the QS permit owner's widow QS holdings constant. NMFS would then adjust the proportion used in order to determine how much QS to revoke of the other 27 species in the calculation to bring the permit owner's holdings to the 2.700% limit. The proportion used would be the same for each species, as above, but adjusted to take 0% away from widow and slightly more away from each of the other species included in the aggregate calculation in order to get the permit owner down to the limit. Using the same example as above, but holding widow

constant, the proportion used in Table 3 to determine the QS to revoke for each species changes slightly, from 53.767% in Table 2 to 54.023% in Table 3 to bring the permit owner to the 2.700% aggregate limit without revoking any widow rockfish QS.

Table 3. Example of How NMFS Would Revoke QS for an Entity Over the 2.7 Percent Aggregate Nonwhiting Control Limit After the Divestiture Deadline, but Before Widow Reallocation Consideration and Implementation Is Complete.

| A | B | C | D | E | F | G | H |
|--|--|--|--|--|--|---|--|
| IFQ Species | 2010 Shorebased Trawl Allocation (lbs) | An Example Entity's QS% - Here Set Equal to Control Limits | Conversion of Individual Entity's QS to Pounds | Overage/Total Owned = (3.140%/5.840%) , Adjusted for Widow | Amount Revoked and Redistributed by NMFS (C*E) | Amount Remaining Owned by Individual (C-G) | Conversion of Individual Entity's Remaining QS to Pounds |
| Arrowtooth flounder | 21,156,441 | 10.000% | 2,115,644 | 54.023% | 5.402% | 4.598% | 972,710 |
| Bocaccio rockfish South of 40°10' N. | 113,287 | 13.200% | 14,954 | 54.023% | 7.131% | 6.069% | 6,875 |
| Canary rockfish | 34,294 | 4.400% | 1,509 | 54.023% | 2.377% | 2.023% | 694 |
| Chillipepper rockfish South of 40°10' N. | 4,046,034 | 10.000% | 404,603 | 54.023% | 5.402% | 4.598% | 186,025 |
| Cowcod South of 40°10' N. | 4,409 | 17.700% | 780 | 54.023% | 9.562% | 8.138% | 359 |
| Darkblotched rockfish | 655,071 | 4.500% | 29,478 | 54.023% | 2.431% | 2.069% | 13,553 |
| Dover sole | 34,546,436 | 2.600% | 898,207 | 54.023% | 1.405% | 1.195% | 412,969 |
| English sole | 20,398,822 | 5.000% | 1,019,941 | 54.023% | 2.701% | 2.299% | 468,938 |
| Lingcod North of 40°10' N. | 3,494,084 | 2.500% | 87,352 | 54.023% | 1.351% | 1.149% | 40,162 |
| Lingcod South of 40°10' N. | 1,283,443 | 2.500% | 32,086 | 54.023% | 1.351% | 1.149% | 14,752 |
| Longspine thornyheads North of 34°27' N. | 4,544,278 | 6.000% | 272,657 | 54.023% | 3.241% | 2.759% | 125,359 |
| Minor shelf rockfish North of 40°10' N. | 543,925 | 5.000% | 27,196 | 54.023% | 2.701% | 2.299% | 12,504 |
| Minor shelf rockfish South of 40°10' N. | 133,526 | 9.000% | 12,017 | 54.023% | 4.862% | 4.138% | 5,525 |
| Minor slope rockfish North of 40°10' N. | 1,950,209 | 5.000% | 97,510 | 54.023% | 2.701% | 2.299% | 44,832 |
| Minor slope rockfish South of 40°10' N. | 869,459 | 6.000% | 52,168 | 54.023% | 3.241% | 2.759% | 23,985 |
| Other flatfish | 9,646,547 | 10.000% | 964,655 | 54.023% | 5.402% | 4.598% | 443,519 |
| Pacific cod | 3,340,003 | 12.000% | 400,800 | 54.023% | 6.483% | 5.517% | 184,276 |
| Pacific ocean perch North of 40°10' N. | 377,577 | 4.000% | 15,103 | 54.023% | 2.161% | 1.839% | 6,944 |
| Petrale sole | 2,502,247 | 3.000% | 75,067 | 54.023% | 1.621% | 1.379% | 34,514 |
| Sablefish North of 36° N. | 6,606,862 | 3.000% | 198,206 | 54.023% | 1.621% | 1.379% | 91,129 |
| Sablefish South of 36° N. | 1,164,834 | 10.000% | 116,483 | 54.023% | 5.402% | 4.598% | 53,556 |
| Shortspine thornyheads North of 34°27' N. | 3,288,084 | 6.000% | 197,285 | 54.023% | 3.241% | 2.759% | 90,706 |
| Shortspine thornyheads South of 34°27' N. | 110,231 | 6.000% | 6,614 | 54.023% | 3.241% | 2.759% | 3,041 |
| Splitnose rockfish South of 40°10' N. | 965,514 | 10.000% | 96,551 | 54.023% | 5.402% | 4.598% | 44,391 |
| Starry flounder | 1,176,166 | 10.000% | 117,617 | 54.023% | 5.402% | 4.598% | 54,077 |
| Widow rockfish | 713,178 | 5.100% | 36,372 | | | 5.100% | 36,372 |
| Yelloweye rockfish | 406 | 5.700% | 23 | 54.023% | 3.079% | 2.621% | 11 |
| Yellowtail rockfish North of 40°10' N. | 8,189,203 | 5.000% | 409,460 | 54.023% | 2.701% | 2.299% | 188,257 |
| Total Non-Whiting Non-Halibut QP Sum: | 131,854,570 | Example Entity's QP Sum: | 7,700,338 | | | Example Entity's NEW QP Sum: | 3,560,035 |
| | | Example Entity's Aggregate Non-Whiting Percentage: | 5.840% | | | Example Entity's NEW Aggregate Non-Whiting Percentage: | 2.700% |
| | | Amount Over Limit (2.7%) | 3.140% | | | NEW Amount Over Limit (2.7%) | 0.000% |

NMFS proposes to revoke QS from each of the aggregate IFQ species (nonwhiting, non-halibut) *except* for widow rockfish since it cannot be transferred under current regulations and may be reallocated. NMFS would adjust the proportion in Column E so that the QS permit owner would continue to hold the same amount of widow, but a little less of all other species in order to hold widow constant. The example in Table 3 is speculative, and does not intentionally bear any resemblance to any particular QS owner.

If a QS permit owner was found to exceed the aggregate nonwhiting control limit in 2016 or beyond, NMFS proposes to notify the QS permit owner and provide them 60 days from the time of notification to transfer excess QS. If the QS permit owner still held QS in excess of the aggregate nonwhiting control limit at the end of the 60 day divestiture period, NMFS proposes to revoke the excess QS using the same method described above, and redistribute the excess QS to all other QS permit owners in proportion to their QS holdings on or about January 1 of the following calendar year, based on current ownership records. No person would be allocated an amount of QS that would put that person over an accumulation limit. NMFS will consider the impacts of a reallocation of widow rockfish on the aggregate nonwhiting control limit and potential divestiture methods as part of the forthcoming widow rockfish reallocation proposed rule.

The proposed method would provide NMFS with clear guidance of how to revoke QS from QS permit owners who are over the aggregate nonwhiting control limit as of the November 30, 2015, divestiture deadline or in 2016 and beyond. Because NMFS will strive to make all quota pound allocations to QS permit owners on or about January 1, 2016, and all QS permits must be under the control limits by this time, a clear process

will allow NMFS to make any necessary QS revocations and redistributions, and subsequent quota pound allocations, in a timely manner.

Abandonment

As described above, the Council's GAP identified a situation where a QS permit owner who is over the 2.7% aggregate nonwhiting control limit may wish to divest of specific IFQ species, such as starry flounder, that are not fully utilized in the fishery in order to get down to the aggregate limit. However, the QS permit owner may be unable to find another QS permit owner who is willing to purchase or accept as a donation the excess QS of these species. If they still held QS in excess of the aggregate nonwhiting control limit after the November 30, 2015, divestiture deadline, NMFS would proceed with the proportional reduction method previously described, potentially revoking some of all nonwhiting nonhalibut species held by the QS permit owner. At the November 2014 Council meeting, the GAP proposed a process by which QS permit owners in this situation might voluntarily abandon QS of their choosing to NMFS to get under the limits by the divestiture deadline and avoid having QS revoked proportionally. The Council expressed support for this abandonment option at the April 2015 Council meeting.

NMFS proposes the abandonment option recommended by the Council in order to provide additional flexibility for these QS permit owners to come into compliance before the divestiture deadline. NMFS proposes that any QS permit owner who is over the 2.7 percent aggregate nonwhiting control limit and wishes to voluntarily abandon QS do so by notifying NMFS in writing no later than November 15, 2015. NMFS would need enough time to process the letter, make an administrative transfer of the abandoned QS out of the requesting QS permit owner's online QS account prior to the November 30

divestiture deadline, and provide the QS permit owner with a new estimate of their aggregate nonwhiting QS holdings. If the abandonment of QS had not yet gotten the QS permit owner down to the aggregate limit, they would still have time to divest of more QS to other QS permit owners prior to the November 30, 2015, deadline.

NMFS proposes that a written abandonment request include: the QS permit number, IFQ species, and the QS percentage to be abandoned. Either the QS permit owner or an authorized representative of the QS permit owner would be required to sign and date the request. QS permit owners choosing to utilize the abandonment option would permanently relinquish any right to the abandoned QS, and NMFS would redistribute the abandoned QS percentages to all other QS permit owners in proportion to their QS holdings up to the QS and IBQ control limits, based on the most recent ownership interest records. No compensation would be due for any abandoned QS. The QS permit owner would be responsible for ensuring that the abandonment of QS to NMFS would get them under the aggregate nonwhiting control limit; any remaining excess found after the divestiture deadline would be revoked proportionally by NMFS, as described above.

If a QS permit owner was found to exceed the aggregate nonwhiting control limit in 2016 or beyond, NMFS proposes to notify the QS permit owner and provide them 60 days from the time of notification to transfer excess QS, and 30 days from the time of notification to abandon excess QS to NMFS, using the same method described above.

The proposed abandonment method would provide a further option for QS permit owners over the aggregate nonwhiting control limit to come into compliance. Currently, QS permit owners can sell, trade, or give away QS to other QS permit owners in order to

reduce their holdings to the QS and IBQ control limits, or wait until the divestiture deadline for NMFS to revoke to these limits. By providing an abandonment option, QS permit owners could abandon QS for species of their choosing to NMFS instead of finding a buyer/recipient or having NMFS revoke proportionally across all nonwhiting nonhalibut species. An abandonment option will not be provided for QS permit owners to get under an individual species control limits since abandonment was intended to allow QS permit owners over the aggregate limit to choose which species to give up.

2015 Implementation Guidance

All QS permit owners and individuals are currently able to divest of any QS (except widow QS) in excess of the QS and IBQ control limits by the November 30, 2015 divestiture deadline. A QS permit owner may sell excess QS in the open QS trading market, donate excess QS to other QS owners of their choosing, or barter. However, in the event that a QS permit owner is found to be in excess of QS and IBQ control limits after the divestiture deadline, NMFS will be required to revoke excess QS. This proposed rule clarifies how NMFS will revoke QS from permit owners who are over an individual species control limit across several QS permits or the aggregate nonwhiting control limit, and provides an abandonment option for those over the aggregate limit. NMFS anticipates that the proposed action could become final in October 2015, which will provide some opportunity for QS owners to use abandonment procedures prior to November 15, 2015.

NMFS sent letters to all QS permit owners who were over one or more of the individual species control limits and/or the aggregate nonwhiting control limit as of July 28, 2015, to allow time and advance notification for divestiture (and potentially

abandonment). NMFS encourages that all QS permit owners divest to the QS and IBQ control limits prior to the divestiture deadline if they want to avoid agency action to ensure that they are under the required control limits. If any QS is revoked, NMFS will send a letter to the QS permit owner with the QS permit in mid-December 2015, describing the species and amount revoked. If any QS is redistributed, NMFS will describe this in a cover letter to all QS permit owners when QS permits are mailed in mid-December 2015.

Future Divestiture Procedures

Similar divestiture measures may be needed in the future for a variety of reasons. For example, if a company changes their ownership structure and a person's QS increases over the control limits as a result, or if the IFQ system inadvertently allows a transfer that puts a QS permit owner over a limit. Accordingly, NMFS proposes to implement for future use, procedures similar to those outlined above. NMFS would notify a QS permit owner that he or she is over a QS or IBQ limit, the QS owner would have 30 days to abandon the excess quota for redistribution by NMFS, or within 30 days of the abandonment deadline, NMFS would revoke excess quota.

Classification

Pursuant to sections 304(b)(1)(a) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Pacific Coast Groundfish Fishery Management Plan, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

NMFS is amending the supporting statement for the Pacific Coast groundfish

trawl rationalization program permit and license information collection Office of Management and Business (OMB) Paperwork Reduction Act (PRA) requirements (number 0648-0620) to reflect the abandonment protocols described in the preamble to this proposed rule. NMFS requests any comments on the PRA abandonment protocol, including whether those minor paperwork protocols described above would unnecessarily burden any QS owners.

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866.

As required by section 603 of the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was prepared. The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A summary of the analysis follows. A copy of this analysis is available from NMFS. Under the RFA, the term “small entities” includes small businesses, small organizations, and small governmental jurisdictions. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the US, including fish harvesting and fish processing businesses. A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$20.5 million for all its affiliated operations worldwide (13 CFR part 121; August 17, 2015). For commercial shellfish harvesters, the other qualifiers apply and the receipts threshold is \$5.5 million. For other commercial marine harvesters, for-hire businesses, and marinas, the other qualifiers apply and the receipts threshold is \$7.5 million. A business primarily involved in seafood processing is classified as a small business if it is

independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment not in excess of 500 employees for all its affiliated operations worldwide. For seafood dealers/wholesalers, the other qualifiers apply and the employment threshold is 100 employees. A small organization is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Small governmental jurisdictions are governments of cities, counties, towns, townships, villages, school districts, or special districts, with populations less than 50,000.

At the time of initial implementation of the trawl rationalization program in 2011, NMFS issued QS to several QS permit owners in excess of one or more individual species control limits and/or the aggregate non-whiting control limit, based on their catch history during the qualifying years. Excess QS or IBQ was only meant to be held for a short adjustment period, and regulations require that QS permit owners must divest of any QS in excess of the accumulation limits by November 30, 2015.

The primary purpose of this rule is to describe two methods by which excess quota share will be divested, if QS holders do not or are unable to divest by the deadline. One method will require NMFS to proportionately reduce quota share in situations where a QS holder has excess QS for an individual species but has holding for that species across multiple species. Additionally, the proportional reduction method would be employed by NMFS for persons who have QS holdings that exceed the aggregate non-whiting control limit. A second method of divestiture would allow QS holders to abandon QS to NMFS by formally notifying NMFS of the IFQ species and amounts of QS they wish to divest to comply with the aggregate non-whiting control limit. In both

cases, whether QS was revoked or abandoned, NMFS would redistribute excess QS to other QS holders proportionate to their current holdings, up to the accumulation limits for that species and to the aggregate non-whiting control limit.

Under current regulations, quota share (QS) owners in the IFQ program must divest quota shareholdings that exceed individual accumulation limits by November 30, 2015. This proposed action would make minor procedural modifications, described above, to the program regulations to clarify how divestiture of excess quota share could occur. However, the regulations do not currently describe a method for NMFS to revoke shares in two situations: when a business entity or person is over an individual species control limit across several QS permits, and when a business entity or person is over the aggregate non-whiting control limit.

There are two control limits that affect the amount of quota share (QS) or individual bycatch quota (IBQ) a person or entity can own:

Control Limits for Individual Species: These are limits set for each species, and these are fairly straightforward to calculate. For example, the control limit for widow rockfish is 5.1%. If a permit owner has 6%, they are over the individual control limit and must divest 0.9% of widow rockfish. If an individual is an owner or partial owner across many QS permits, he or she must add up their shares across permits to see if they are under the limit. For example: if Joe Dragger has three QS permits: permit A has 1% of widow rockfish, permit B has 1%, and permit C has 2%, the total widow rockfish owned by this person would be 4%, and would be under the 5.1% control limit.

Aggregate Non-Whiting Control Limit: This limit applies to 28 IFQ species or species groups - all except Pacific whiting and Pacific halibut. There is a total limit of

2.7% that a quota shareholder can own across the non-whiting IFQ species and species groups. This limit is more restrictive than the sum of individual species limits. The limit is calculated by converting an entity's QS percentages into pounds based on the 2010 optimum yields (OYs), and then dividing those pounds by the total 2010 OY to convert it back to a percentage. For example, if an entity owned 3% of aggregate non-whiting shares, they would be over the limit by 0.3%. In this situation, the entity would need to divest of some shares (of the species and amounts of their choosing) in order to get under or equal to the 2.7% limit.

This rule affects Quota Shareholders in the Pacific Groundfish Trawl Rationalization Fishery. For the years 2011 to 2014, the total IFQ fishery averaged harvests (including discards) of approximately 107,000 mt annually and worth over \$52 million in ex-vessel revenues. Ex-vessel revenues in 2014 were over \$52 million with a harvest of approximately 117,217 tons. Note that the use of ex-vessel values does not take into account the wholesale or export value of the fishery or the costs of harvesting and processing groundfish into a finished product. The shorebased quota share fishery in 2014 supported 138 quota shareholders that held shares of 30 groundfish species or species groups. Quota pounds are allocated annually based on the sector allocations and the quota share percentages for each species owned by each permit owner. These quota pounds then need to be transferred to vessel accounts to be fished. In 2014, there were 144 IFQ vessel accounts. Vessels fishing under these accounts must carry observers or be participating under an Electronic Monitoring Exempted Fishing Permit. Fish must be landed at a first receiver that has a federal license and the required equipment for all offloads to be monitored and accounted for by a compliance monitor. There is an online

electronic database that tracks the trading of quota shares between quota share accounts and the trading of quota pounds and catch and discard amounts in vessel accounts.

NMFS considered various alternatives for this action. Under the status quo/No-Action alternative, NMFS would have no specific regulations in place that detail how NMFS will revoke excess QS when QS holders either cannot or do not divest by the November 30, 2015, deadline if a business or person that is over the individual control limit for an IFQ/IBQ specie(s) across multiple permits or when a business or person is over the aggregate non-whiting control limit.

At the November 2014 Pacific Fishery Management Council Meeting, NMFS noted the upcoming divestiture deadline and proposed an alternative, where specific regulations would provide transparency to the process of revoking excess quota shares in these two situations (Agenda Item J.2.b, NMFS Report, November 2014). The NMFS alternative would provide quota share permit owners with explicit rules so that they would understand how excess QS would be revoked. These rules would aid business planning for current and future quota shareowners.

The Pacific Fishery Management Council's industry advisory group, the Groundfish Advisory Panel (GAP), made suggestions that a better alternative should be shaped. At the April Council Meeting, the GAP made the following statement: "The GAP reached consensus that forfeiture of quota in excess of caps should be allowed. If forfeiture were not allowed, it could result in a draconian outcome where NMFS takes species in excess pro rata resulting in loss of valuable species. Since there may be little to no demand for some species they may be impossible to divest through the market leaving forfeiture as the only realistic option. (Agenda Item E.6.a, Supplemental GAP Report,

April 2014).” At the November 2014 Council meeting, the Groundfish Advisory Panel made the following suggestion: “The GAP believes a non-punitive option that allows participants to “abandon” quota share should be developed. In some cases, there may be no market for certain IFQ species quota share that needs to be divested. If a participant is unable to transfer that quota share for reasons beyond his control, he should not be penalized. An option that allows the quota to be “abandoned” to NMFS should be developed. (Agenda Item J.2.b, Supplemental GAP Report, November 2014) ” The Preferred option provides the “abandonment option” plus the application of the proportional reduction method in those instances where no abandonment occurs.

The aggregate limit is based on 28 of the 30 IFQ species (all IFQ species except Pacific whiting and Pacific halibut). Current rules are silent on how NMFS should reduce a Quota Shareholder’s portfolio of individual species quota shareholding if they are over the aggregate non-whiting control limit. Therefore, NMFS is seeking public comment on a proposal to determine which individual species are reduced should a quota share owner not take action to reduce his quota shares to get under the limit. Currently there are two ways in which a Quota shareholder can reduce his quota share holdings to get under the aggregate limit--either by sale or by gift to another quota shareholder. There are two mechanisms in this proposed rule for NMFS will determine the amounts of individual species quota shares that need to be reduced. First, NMFS will use written instructions as provided by the quota shareholder that indicates what individual species quota shares are to be abandoned to NMFS for redistribution to other quota shareholders. Absent written instructions, NMFS will reduce each individual species quota share holdings in

proportion to the amount of the aggregate overage divided by the aggregate total owned until the aggregate limit is reached.

This proposed rule would have no negative effects on the current industry or on the economy more generally. Current levels of harvest will be left unaffected. The only changes that might happen would be as a result of NMFS reducing quota shareholders who failed to divest their excess shares by November 30, 2015. Should QS holders have excess QS after November 30, 2015, NMFS will revoke the excess QS and redistribute these shares to other quota shareholders up to the control limit. These excess quota shares will be redistributed to all other Quota shareholders on a proportional basis in a manner that their individual and aggregate limits are not exceeded. There may be situations in the future where NMFS ownership information is not current and the QS database fails to block transfers that result in QS holders exceeding their limits. NMFS proposes to continue to use the same rules of reducing excess quota shares.

Quota shareholders are required to report their ownership structure. Annually NMFS collects ownership information at the entity level (corporation, LLC, partnership, trust, nonprofits, publicly held company etc.) and the individual level. Ownership is reported down to a level of 2% ownership. Some quota shareholders hold as many as 13 QS permits. For a given QS permit, the ownership hierarchy may reach to the 7th level. All told, there are an estimated 435 unique entities involved. NMFS reviewed the ownership structure of all the QS permits to the lowest level of ownership. There are nine unique entities over one or more of the individual species control limits, and 3 or less unique entities over the aggregate non-whiting control limit.

The main purpose of this rulemaking is to provide transparency. This rule shows not only how NMFS will calculate excess quota share holding but also how NMFS will proportionately reduce either for an individual species across multiple permits or in cases where someone does not abandon QS and is over the aggregate limit. Even though there may not be negative effects on the industry, there may be effects on individual entities. For those that are over the individual species control limit, this rule provides transparency on how NMFS has calculated overages. Some quota shareholders may exceed the individual species limit as they are owners or part owners of multiple permits. This rule proposes the process for proportional reduction when a quota shareowner is over an individual limit across permits.

For those entities that are over the aggregate non-whiting control limit, this rule provides transparency but also a process whereby the quota shareholder can direct NMFS on what quota share species should be reduced. With this option, the quota shareholder can direct NMFS to reduce his/her QS for low-valued species to get under the aggregate limit. This option mitigates the economic effect on those quota shareholders over the aggregate limit, should they not be able to sell or gift their shares to another entity.

This process is as follows: QS owners that are over the control limit for aggregate non-whiting QS holdings may voluntarily abandon QS prior to the November 30, 2015, deadline by notifying NMFS in writing by November 15, 2015. The written request must include: QS permit number, IFQ species, and the QS percentage to be abandoned. Either the QS permit owner or an authorized representative of the QS permit owner would be required to sign the request. QS permit owners choosing to utilize the abandonment option would permanently relinquish any right to the abandoned QS, and NMFS would

redistribute the abandoned QS percentages to all other QS owners in proportion to their QS holdings, based on ownership records as of January 1, 2016. No compensation would be due for any abandoned shares. If a quota shareholder does not request abandonment and provide NMFS with directions, NMFS will use the proportional reduction methods where proportional amounts of QS for all nonwhiting species are reduced to come into compliance with the aggregate limit. Some of those reductions will include valuable market and bycatch species.

This process may provide some small benefits to the affected quota shareholders. At the moment, the nature of trading is such that NMFS does not have good estimates of the value of a quota share because there has been insufficient information to establish quota share prices. Many trades are multiple species trades, barter trades, or trades among closely affiliated entities. However, the economic effect of allowing those entities the option of giving NMFS instructions on how to dispose of their excess shares can be illustrated with ex-vessel prices. At the low end of the price range are whiting and arrowtooth flounder at about \$0.10 a pound each. At the high end of the spectrum are petrale sole and sablefish at \$1.13 and \$1.98 per lb., respectively. In between these prices are prices for important bycatch species such as canary and yelloweye. Although the ex-vessel prices for these bycatch species may not be high, they are needed to support the target catch. Without this option, NMFS would proportionally revoke quota shares from all species regardless of value if a QS permit owner had not divested voluntarily by the November 30, 2015 deadline. The quota shareholder can direct NMFS to reduce their low-valued species to get under the aggregate limit. This option mitigates the economic

effect on those quota shareholders over the aggregate limit, should they not be able to sell or gift their shares to another entity.

NMFS is almost done building a sophisticated ownership database. In the future, when quota share trades are made, the online quota share trading system will have rules that will prevent trades that bring individuals who own QS bring an entity over the aggregate species limit under the first level of ownership. However, in the event that such trading is not prevented because of complex trading and ownership relationships, the rules and processes associated with this rulemaking will apply.

There are 138 quota shareholders potentially directly affected by the aggregate species limits as reductions of excess shares will be taken from the quota share percentages listed on the permit. At the first level of ownership and based on affiliations, there are 96 unique businesses. Even if some first level owners are persons, they are considered businesses for purposes for determining the effects on small businesses. These QS holders must direct the quota pounds to various vessel accounts so that quota pounds can be fished. Quite frequently they also own limited entry permits, the vessels attached to these permits, or processing facilities. As compared to secondary owners or investors, first level quota shareholders are active participants in the fishery, and thus are businesses for purposes of this rule. Also, all quota shareholders when renewing their quota share permits must respond to questions of whether they consider themselves a large or small business. All 138 quota shareholders are businesses. Of these businesses, 15 are large. There are 9 entities affected by the control limit for one or more individual species. These entities are affected only in the sense that NMFS is showing how it will calculate excess shares across multiple permits. There are 3 or less affected entities by the

aggregate species limit divestiture rules. When combined, there are 9 unique entities affected by this rule—7 small and 2 large.

NMFS believes that there are no significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes and that minimize any of the significant economic impacts of the proposed rule on small entities. There are no relevant Federal rules that may duplicate, overlap, or conflict with this action. NMFS believes this proposed rule would not adversely affect small entities. Nonetheless, NMFS has prepared this IRFA. Through the rulemaking process associated with this action, we are requesting comments on these conclusions.

This proposed rule was developed after meaningful collaboration, through the Council process, with the tribal representative on the Council. The proposed regulations have no direct effect on the tribes.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: August 26, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660–FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

1. In § 660.140, revise paragraph (d)(4)(v) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(4) * * *

(v) *Divestiture.* Accumulation limits will be calculated by first calculating the aggregate non-whiting QS limit and then the individual species QS or IBQ control limits. For QS permit owners (including any person who has ownership interest in the owner named on the permit) that are found to exceed the accumulation limits during the initial issuance of QS permits, an adjustment period will be provided during which they will have to completely divest their QS or IBQ in excess of the accumulation limits. QS or IBQ will be issued for amounts in excess of accumulation limits only for owners of limited entry permits as of November 8, 2008, if such ownership has been registered with NMFS by November 30, 2008. The owner of any permit acquired after November 8, 2008, or if acquired earlier, not registered with NMFS by November 30, 2008, will only be eligible to receive an initial allocation for that permit of those QS or IBQ that are within the accumulation limits; any QS or IBQ in excess of the accumulation limits will be redistributed to the remainder of the initial recipients of QS or IBQ in proportion to each recipient's initial allocation of QS or IBQ for each species. Any person that qualifies

for an initial allocation of QS or IBQ in excess of the accumulation limits will be allowed to receive that allocation, but must divest themselves of the QS (except for widow rockfish QS) or IBQ in excess of the accumulation limits by November 30, 2015, according to the procedure provided under paragraph (d)(4)(v)(A) of this section. If NMFS identifies that a QS permit owner exceeds the accumulation limits in 2016 or beyond, the QS permit owner must divest of the QS or IBQ in excess of the accumulation limits according to the procedure provided under paragraph (d)(4)(v)(B) of this section. Owners of QS or IBQ in excess of the control limits may receive and use the QP or IBQ pounds associated with that excess, up to the time their divestiture is completed.

(A) *Divestiture and redistribution process in 2015.* QS permit owners in excess of the control limit for aggregate nonwhiting QS holdings may abandon QS to NMFS by November 15, 2015 using the procedure provided under paragraph (d)(4)(v)(C) of this section. QS permit owners must divest themselves of any QS or IBQ in excess of the accumulation limits by November 30, 2015, except for widow rockfish QS, which cannot be transferred as described in paragraph (d)(3)(ii)(B)(2) of this section. After the November 30, 2015 divestiture deadline, NMFS will revoke all QS or IBQ held by a person (including any person who has ownership interest in the owner names on the permit) in excess of the accumulation limits following the procedures specified under paragraphs (d)(4)(v)(D) through (G) of this section. All abandoned or revoked shares will be redistributed to all other QS permit owners in proportion to their QS or IBQ holdings on or about January 1, 2016, based on current ownership records, except that no person will be allocated an amount of QS or IBQ that would put that person over an accumulation limit.

(B) *Divestiture and redistribution process in 2016 and beyond.* Any person owning or controlling QS or IBQ must comply with the accumulation limits, even if that control is not reflected in the ownership records available to NMFS as specified under paragraphs (d)(4)(i) and (iii) of this section. If NMFS identifies that a QS permit owner exceeds an accumulation limit in 2016 or beyond, NMFS will notify the QS permit owner that he or she has 60 days to divest of the excess QS or IBQ. In the case that a QS permit owner exceeds the control limit for aggregate nonwhiting QS holdings, the QS permit owner may abandon QS to NMFS within 30 days of the notification by NMFS, using the procedure provided under paragraph (d)(4)(v)(C) of this section. After the 60-day divestiture period, NMFS will revoke all QS or IBQ held by a person (including any person who has ownership interest in the owner names on the permit) in excess of the accumulation limits following the procedures specified under paragraphs (d)(4)(v)(D) through (G) of this section. All abandoned or revoked shares will be redistributed to all other QS permit owners in proportion to their QS or IBQ holdings on or about January 1 of the following calendar year, based on current ownership records, except that no person will be allocated an amount of QS or IBQ that would put that person over an accumulation limit.

(C) *Abandonment of QS.* QS permit owners that are over the control limit for aggregate nonwhiting QS holdings may voluntarily abandon QS if they notify NMFS in writing by the applicable deadline specified under paragraph (d)(4)(v)(A) or (B) of this section. The written abandonment request must include the following information: QS permit number, IFQ species, and the QS percentage to be abandoned. Either the QS permit owner or an authorized representative of the QS permit owner must sign the

request. QS permit owners choosing to utilize the abandonment option will permanently relinquish to NMFS any right to the abandoned QS, and the QS will be redistributed as described under paragraph (d)(4)(v)(A) or (B) of this section. No compensation will be due for any abandoned shares.

(D) *Revocation.* NMFS will revoke QS from any QS permit owner who exceeds an accumulation limit after the divestiture deadline specified under paragraph (d)(4)(v)(A) or (B) of this section. NMFS will follow the revocation approach summarized in the following table and explained under paragraphs (d)(4)(v)(E) through (G) of this section:

| <u>If, after the divestiture deadline, a QS permit owner exceeds...</u> | <u>Then...</u> |
|--|--|
| An individual species control limit (non-widow until reallocation is complete) in <u>one</u> QS permit | NMFS will revoke excess QS at the species level. |
| An individual species control limit (non-widow until reallocation is complete) across <u>multiple</u> QS permits | NMFS will revoke QS at the species level in proportion to the amount the QS percentage from each permit contributes to the total QS percentage owned. |
| The control limit for aggregate nonwhiting QS holdings | NMFS will revoke QS at the species level in proportion to the amount of the aggregate overage divided by the aggregate total owned. Until widow reallocation is complete, the proportion will be adjusted to hold widow QS at a constant level while bringing the aggregate percentage owned to 2.700%, using normal rounding rules. |

(E) *Revocation of excess QS or IBQ from one QS permit.* In cases where a person has not divested to the control limits for individual species (non-widow until reallocation is complete) in one QS permit by the deadline specified under paragraph (d)(4)(v)(A) or (B) of this section, NMFS will revoke excess QS at the species level in order to get that person to the limits. NMFS will redistribute the revoked QS following the process

specified in paragraph (d)(4)(v)(A) or (B) of this section. No compensation will be due for any revoked shares.

(F) *Revocation of excess QS or IBQ from multiple QS permits.* In cases where a person has not divested to the control limits for individual species (non-widow QS until reallocation is complete) across QS permits by the deadline specified under paragraph (d)(4)(v)(A) or (B) of this section, NMFS will revoke QS at the species level in proportion to the amount the QS percentage from each permit contributes to the total QS percentage owned. NMFS will redistribute the revoked QS following the process specified in paragraph (d)(4)(v)(A) or (B) of this section. No compensation will be due for any revoked shares.

(G) *Revocation of QS in excess of the control limit for aggregate nonwhiting QS holdings.* In cases where a QS permit owner has not divested to the control limit for aggregate nonwhiting QS holdings by the deadline specified under paragraph (d)(4)(v)(A) or (B) of this section, NMFS will revoke QS at the species level in proportion to the amount of the aggregate overage divided by the aggregate total owned. Until widow reallocation is complete and transfer of widow is allowed, widow will continue to be included in the aggregate calculation, but the proportion will be adjusted to hold widow QS at a constant level while bringing the aggregate percentage owned to 2.700%, using normal rounding rules. NMFS will redistribute the revoked QS following the process in paragraph (d)(4)(v)(A) or (B) of this section. No compensation will be due for any revoked shares.

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